

1			<u>I N D E X</u>		
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	(None.)				
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9			<u>I N D E X</u>		
10	<u>EXHIBITS</u>		<u>MARKED</u>		<u>ADMITTED</u>
11	(None.)				
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1 The purpose of today's Status Hearing
2 is to clarify any issues and set a schedule in this
3 matter.

4 Ms. McClain, I've taken a look at your
5 Complaint, and it is unclear to me exactly what it is
6 that you're concerned with.

7 So can I ask you to please briefly
8 describe why you've filed this Complaint against
9 CILCO here.

10 MS. McCLAIN: Okay, ummm, they send me a letter
11 saying they were going to have additional charges put
12 on my bill for stealing CILCO. They said I messed
13 with the CILCO box and I turned the CILCO back on
14 before they got here.

15 JUDGE ALBERS: Do you recall when you got that
16 letter, just roughly? The month and the year.

17 MS. McCLAIN: Oh God. All of that stuff is
18 downstairs. Ummm, I guess it was in October --
19 November, October or November.

20 JUDGE ALBERS: Okay, of '06?

21 MS. McCLAIN: Yes, I'm sorry.

22 JUDGE ALBERS: That's fine.

1 And it was your understanding that
2 from that whether that CILCO wanted to charge
3 additional charges to you?

4 MS. McCLAIN: Yes.

5 JUDGE ALBERS: Because they believed - and
6 correct me if I'm wrong - they believed that were you
7 using more power than what they billed you for; is
8 that the issue?

9 MS. McCLAIN: No, they said I tampered with the
10 meter.

11 JUDGE ALBERS: Okay. And this is the meter on
12 your residence there --

13 MS. McCLAIN: Yes.

14 JUDGE ALBERS: -- (continuing) at 2611?

15 MS. McCLAIN: Yes.

16 JUDGE ALBERS: Okay. And you're saying that is
17 not the case?

18 MS. McCLAIN: No, it's not the case. No, sir,
19 it's not.

20 JUDGE ALBERS: Okay.

21 MS. McCLAIN: My CILCO was turned off for lack
22 of payment, which was true. And, ummm, they came out

1 and turned the CILCO off about 8:30, almost 9:00 that
2 morning.

3 I went and paid the CILCO bill. I
4 called them back in and told them that I had paid it.

5 And I called in and they said that the
6 computers were down. And I called them again after
7 12 and let them know that I had paid it just in case,
8 because the lady asked me for the number of the
9 receipt and everything.

10 And so I called them back to make sure
11 that it was put on the computers, that if the
12 computers were still down. And she said the
13 computers were up and they were going to send someone
14 out the same day.

15 And I didn't see anybody come and turn
16 my CILCO on. All I know when I came back home, the
17 CILCO was on.

18 JUDGE ALBERS: Okay. And this is just
19 electricity, correct --

20 MS. McCLAIN: Um-mmm --

21 JUDGE ALBERS: -- (continuing) as opposed to
22 natural gas?

1 MS. McCLAIN: I don't know if they turned the
2 gas off or not.

3 JUDGE ALBERS: Okay.

4 MS. McCLAIN: I just know I didn't have any
5 lights.

6 JUDGE ALBERS: So you had electricity --

7 MS. McCLAIN: Yes.

8 JUDGE ALBERS: -- (continuing) and you received
9 the letter CILCO some time in October or November.
10 And did you not pay any additional amount, CILCO
11 turned the power off, possibly the gas as well -
12 you're not sure. You paid an additional amount. And
13 then CILCO came back that day and turn turned it back
14 on?

15 MS. McCLAIN: I paid the bill, yes, sir.

16 JUDGE ALBERS: Okay. I just --

17 MS. McCLAIN: I paid --

18 JUDGE ALBERS: I just --

19 MS. McCLAIN: I paid the bill that was due.

20 JUDGE ALBERS: Okay. I'm just trying to make
21 sure I understand --

22 MS. McCLAIN: Yeah, all I had to do was pay the

1 CILCO bill that was due. And they -- so that they
2 would send someone out to turn it back on.

3 So I went to the currency exchange
4 which is four blocks away and I paid the CILCO bill.

5 JUDGE ALBERS: Okay, and then --

6 MS. McCLAIN: And I called them back again.
7 And, as a matter of fact, I didn't even see the guy
8 that came out to turn the CILCO off.

9 I just heard him outside -- with a
10 bunch of noise and the CILCO went off.

11 And, ummm, he was getting back in the
12 truck. And it didn't have AmerenCILCO on it, there
13 was just a red truck with a white top, a white camper
14 on it.

15 So I called CILCO. And they said all
16 I had to do was pay the bill. I went and paid the
17 bill. And they said they would send somebody back
18 out the same day.

19 Why would I touch anything if they
20 were going to come back?

21 JUDGE ALBERS: Okay.

22 And you're seeking -- what exactly are

1 you seeking the Commission to do then?

2 MS. McCLAIN: Okay, ummm, I don't want to pay
3 the charges because they're talking about a hundred
4 and eighty-nine dollar - a hundred and eighty-nine
5 dollars for this.

6 And I didn't touch that box. And I
7 don't know who did or how it was done. I didn't even
8 see CILCO come back out to even cut the CILCO back
9 on. All I know is my CILCO was turned back on. They
10 said they'd send someone out.

11 They gave me two times, two different
12 hours that they would send somebody out. Somebody
13 said it was at 2:00. Somebody said it was 3:00. And
14 I don't know when it was done. But they sent the
15 CILCO back on. All I know when I came in the house,
16 the CILCO was on.

17 JUDGE ALBERS: Okay.

18 MS. McCLAIN: And if I was gonna steal
19 something -- if I was going to steal electricity, why
20 would I go pay the bill, and then call them and tell
21 them I need my CILCO back on?

22 JUDGE ALBERS: Well, right now I'm just trying

1 to understand exactly what happened.

2 The one hundred eighty-nine dollars,
3 is that how much they said that you owed in that
4 letter you received?

5 MS. McCLAIN: Yes, that's how much -- yes.

6 JUDGE ALBERS: Okay.

7 And do you recall exactly what those
8 charges were supposed to have been for? Like what
9 were you paying for with that one hundred and
10 eighty-nine dollars?

11 MS. McCLAIN: He said for going out and
12 tampering with the meter, breaking a seal and
13 something else. That's what the lady in Springfield
14 explained to me over the cost.

15 JUDGE ALBERS: Okay. So that was in
16 addition -- as you understood it, that was in
17 addition to whatever electricity that you had used --

18 MS. McCLAIN: That was an addition to it.

19 JUDGE ALBERS: Okay.

20 But you went ahead and paid the one
21 hundred and eighty-nine dollars once your power was
22 turned off?

1 MR. FITZHENRY: That's the amount in dispute,
2 Judge.

3 JUDGE ALBERS: Okay.

4 And what you'd like right now is to
5 get -- to somehow have that one hundred eighty-nine
6 dollars returned to you?

7 MS. McCLAIN: Ummm, well, they can keep it for
8 my next CILCO bill. But, yes, I want that money
9 back, yeah, to go towards my CILCO because I did not
10 touch their equipment.

11 JUDGE ALBERS: Okay. I think I've got a fair
12 idea of what transpired.

13 Mr. Fitzhenry, do you have any
14 additional questions to help you understand the
15 nature of the Complaint?

16 MR. FITZHENRY: Judge, I think Miss McClain has
17 done a fine job of explaining at least what I thought
18 was her Complaint, and it's really she contends that
19 she should not be assessed the tampering charge and
20 what we call the forced cut-in charge.

21 The tampering charge itself was in the
22 amount of \$118.81, and what we call the forced cut-in

1 charge was in the amount of \$70.35.

2 MS. McCLAIN: Yes, that's the amount.

3 MR. FITZHENRY: And the total of those two
4 charges was one hundred eighty-nine dollars and
5 sixteen cents, and it's her position that she
6 shouldn't be responsible for those charges.

7 That's what I thought her Complaint
8 is, that's what I thought I heard her say here this
9 afternoon, so --

10 MS. McCLAIN: Yes, but they're saying that I
11 did it, that I stole utilities from CILCO, and I did
12 not do that.

13 JUDGE ALBERS: Well, I think -- we'll determine
14 that question at a later point in time.

15 Today, we want to just find out
16 exactly what the allegations are, and then set a
17 schedule for responding to them.

18 MS. McCLAIN: Well, Judge, this is part of the
19 allegations because they're saying that I stole
20 utilities from them.

21 JUDGE ALBERS: Well, no, I understand that
22 that's your position. I can't answer that question

1 today, that's all I'm saying.

2 MS. McCLAIN: Oh, okay.

3 JUDGE ALBERS: Mr. Fitzhenry, did you have any
4 further comment then on the issues?

5 MR. FITZHENRY: No, I don't, your Honor.

6 Thank you, both.

7 JUDGE ALBERS: Well, and thank you, Ms.
8 McClain.

9 What we would do next typically is set
10 a date -- set a couple dates into the future for both
11 sides to present their case in writing.

12 And you've helped explain it just now,
13 Ms. McClain, but what we would do next is give you a
14 chance to put that all in writing. And then attach
15 to your written statement any documents that you
16 think would support your position.

17 And then after that, the Company would
18 have a chance to do the same. They could put their
19 position in writing and attach any documents to
20 support their side.

21 Then you could --

22 MS. McCLAIN: Any documents, like what? The

1 receipt for the CILCO bill that was paid by --

2 JUDGE ALBERS: Well, I would say, you know, for
3 example, in this instance you might consider
4 attaching the letter -- a copy of the letter you
5 received.

6 MS. McCLAIN: Okay.

7 JUDGE ALBERS: And if you think it's relevant
8 then a copy of that receipt that you got for paying
9 the bill.

10 MS. McCLAIN: Yes, sir.

11 JUDGE ALBERS: Sometimes in cases of tampering,
12 you know, somebody might try to submit photographs of
13 a meter. I don't know if that's something that you
14 would be a position to do. But just as an example I
15 throw that out there.

16 MS. McCLAIN: Okay.

17 JUDGE ALBERS: And then any way after the
18 Company gets a chance to put their position in
19 writing and submit any similar documents. You would
20 have one more opportunity if you wanted it to respond
21 to what they put in writing.

22 MS. McCLAIN: Okay.

1 JUDGE ALBERS: And then we would meet all in
2 person here in Springfield. And you would have a
3 chance to question their witness, whoever it is that
4 provided the documents, the written statement.

5 MS. McCLAIN: I have to meet you in person?

6 JUDGE ALBERS: Well --

7 MS. McCLAIN: You mean, I have to come there?

8 JUDGE ALBERS: Yes. For the Evidentiary
9 Hearing, it's often customary for the Parties meet in
10 person and to question each other in person.

11 And we can set a date that's
12 convenient for you and the Ameren witnesses. But
13 that's how it typically works.

14 MS. McCLAIN: Okay. All right.

15 JUDGE ALBERS: So why don't we look at our
16 calendars then and try to determine some dates here.

17 The first thing I guess,
18 Mr. Fitzhenry, do you feel like you would be able to
19 file an answer given what we know?

20 MR FITZHENRY: Yes, we'll file an answer within
21 ten days, your Honor.

22 JUDGE ALBERS: All right, thank you. So,

1 you're saying like February 1st?

2 MR. FITZHENRY: That's fine.

3 JUDGE ALBERS: Okay. Let me ask if that's fine

4 with Ms. McClain.

5 MS. McCLAIN: Okay, that's fine.

6 JUDGE ALBERS: And the Answer is for the

7 Company to file. You don't have to worry about

8 submitting anything then, Ms. McClain.

9 MS. McCLAIN: Okay.

10 JUDGE ALBERS: Now as far as the submission of

11 your written statement, Ms. McClain, how much time

12 would you like to put that together?

13 MR. FITZHENRY: You might want to perceive some

14 limited Discovery, Judge.

15 JUDGE ALBERS: That's fine. Yes, I'm sorry, I

16 should address that as well.

17 That often occurs to some extent

18 simultaneously, and Discovery simply means the

19 Company will have a chance to ask you questions --

20 MS. McCLAIN: Okay.

21 JUDGE ALBERS: And you'll have a chance to ask

22 the Company questions --

1 MS. McCLAIN: Oh, okay.

2 JUDGE ALBERS: If they think you have some
3 documents they'd like to see or just to get some more
4 information from you, they'll ask you some questions
5 and you can submit answers.

6 And if you think they have some
7 documents or would like to answer some questions that
8 would help you prepare your case, then this is your
9 time to do that as well.

10 Typically, that occurs just between
11 the Parties, the Judge does not get involved in that
12 unless there's a dispute.

13 MS. McCLAIN: Oh, okay.

14 JUDGE ALBERS: But if you would like to set
15 aside some time for the two of you to do that, that's
16 fine. We can --

17 How much time did you have in mind,
18 Mr. Fitzhenry?

19 MR. FITZHENRY: I think within the next
20 forty-five days all Discovery can be completed.

21 JUDGE ALBERS: Okay.

22 MS. McCLAIN: Forty-five?

1 MR. FITZHENRY: Well, I can do it thirty days
2 if that's preferable to you, Ma'am.

3 MS. McCLAIN: If you don't mind, can we make it
4 sooner than that? Because I'm on a fixed income, a
5 hundred and eight-nine dollars taken away from me is
6 a lot. Six hundred and twenty-five dollars -- six
7 hundred and twenty-eight dollars a month, and that
8 was taken from me.

9 MR. FITZHENRY: All right, I'll send you all
10 the Discovery that I think I need to ask you within
11 the next two weeks.

12 MS. McCLAIN: Okay, thank you, very much.

13 MR. FITZHENRY: Okay.

14 And then if you have any questions for
15 me or if you have any information that you think I
16 have that you would like to see, then you would also
17 send it to me and I'll turn it around as quickly as I
18 can.

19 MS. McCLAIN: Okay, yes, Sir, thank you, very
20 much.

21 JUDGE ALBERS: Well, with that in mind
22 Ms. McClain, do you think you would be able to have

1 some type of written Statement submitted to us by say
2 the end of February?

3 MS. McCLAIN: Yes, sir.

4 JUDGE ALBERS: February 28th then; is that all
5 right?

6 MS. McCLAIN: Yes, sir.

7 JUDGE ALBERS: Okay.

8 MS. McCLAIN: It's really not even my income,
9 it's my son's income because I don't have income.

10 JUDGE ALBERS: And I'll just ask you, when you
11 submit that Statement, please send that to me as well
12 as to Mr. Fitzhenry.

13 MS. McCLAIN: Okay.

14 JUDGE ALBERS: Okay. And my address here at
15 the Commission should have been on some documents
16 that you received.

17 MS. McCLAIN: Yes, I do have that.

18 JUDGE ALBERS: You have that, okay.

19 And we can wait until we're off the
20 record and you can get Mr. Fitzhenry's address.

21 And, Mr. Fitzhenry, after her Direct
22 Statement, how much time would you like?

1 MR. FITZHENRY: Two weeks, your Honor.

2 JUDGE ALBERS: Two weeks, that would get us to
3 March 14th.

4 MR. FITZHENRY: And then I would suggest a
5 brief Status after the 14th with the idea of setting
6 the matter for a hearing as soon as practical after
7 the Status.

8 JUDGE ALBERS: What would be discussed at the
9 14th -- I'm sorry, the Status?

10 MR. FITZHENRY: Well, I mean, there's at least
11 two possibilities that come to mind. One, whether
12 there's a real need for the Parties to appear before
13 you and conduct the Direct and Cross-examination of
14 their witnesses.

15 Sometimes Parties will waive that and
16 just be comfortable with submitting their case based
17 on what they've provided in written form.

18 Or Parties can decide at that time if
19 they want do want the opportunity to ask questions of
20 the other, and then that would be decided then as
21 well.

22 JUDGE ALBERS: All right, that's fine. Why

1 don't we before that though work in a time for
2 Ms. McClain to respond to your written testimony, if
3 she wants to.

4 Do you think you'd like that
5 opportunity, Ms. McClain, to --

6 MS. McCLAIN: Yes, sir.

7 JUDGE ALBERS: Okay. So if CILCO files its
8 Testimony on March 14th, would you like a week to get
9 some type of responsive testimony in, or more time
10 than that?

11 MS. McCLAIN: Are you speaking to me?

12 JUDGE ALBERS: Yes.

13 MS. McCLAIN: Ummm, no, that's fine.

14 JUDGE ALBERS: Okay, if you need more time,
15 just say so. I know you're --

16 MS. McCLAIN: No, sir.

17 JUDGE ALBERS: Okay.

18 MS. McCLAIN: Because I don't have any -- well,
19 you can know now since this is -- I don't have any
20 evidence other than I paid the bill and the time
21 dated. And then them coming out and saying this and
22 that letter.

1 So, there is no witnesses for me,
2 I'm -- this is -- it's just me.

3 JUDGE ALBERS: Okay. I would just advise you
4 at this point, in any kind of case where somebody
5 files a Complaint such as you have here, the person
6 that files the Complaint has the burden of proving
7 the case, of proving that they're right and the other
8 side is wrong.

9 So I just wanted to make you aware of
10 that. So, if we receive your follow-up Statement on
11 March 21st, when would you like to meet again on the
12 phone for another Status Hearing?

13 MS. McCLAIN: Ummm, whenever. They're going to
14 do what they want to do anyway.

15 JUDGE ALBERS: Well, I'm certainly going to
16 listen to both sides. I just have to make a
17 decision --

18 MS. McCLAIN: Okay.

19 JUDGE ALBERS: -- (continuing) based on
20 whatever I get from the two sides.

21 MS. McCLAIN: Oh, okay.

22 JUDGE ALBERS: So, do you want to meet right

1 after the 21st then, on the --

2 MS. McCLAIN: Yes, sir.

3 JUDGE ALBERS: So then, if the 21st is a

4 Wednesday, would you like to talk on that Friday or

5 the following Monday?

6 MS. McCLAIN: Yes, that Friday would be fine.

7 JUDGE ALBERS: Mr. Fitzhenry?

8 MR. FITZHENRY: And that's the 23rd, correct?

9 JUDGE ALBERS: Yes.

10 MR. FITZHENRY: That would be fine. That would

11 be our Status Hearing?

12 JUDGE ALBERS: Yes.

13 MR. FITZHENRY: Okay.

14 MS. McCLAIN: March 23rd.

15 At 2:00 again?

16 JUDGE ALBERS: If that time is good for you,

17 that's fine, with me.

18 Mr. Fitzhenry, does that work for you?

19 MR. FITZHENRY: That's fine, your Honor.

20 JUDGE ALBERS: All right. All right, then

21 that's the dates we need to set up now, that's fine.

22 Are there any other questions about

1 how we'll conduct this?

2 MR. FITZHENRY: Ms. McClain, are you going to
3 be available right after this status hearing that I
4 can talk with you?

5 MS. McCLAIN: Yes, sir.

6 MR. FITZHENRY: And is the number that I can
7 reach you at (309) 673-3582?

8 MS. McCLAIN: Yes, sir.

9 MR. FITZHENRY: All right, it's important that
10 I talk to you, so just hang tight --

11 MS. McCLAIN: Okay.

12 MR. FITZHENRY: -- (continuing) and we'll go
13 from there, okay?

14 MS. McCLAIN: Yes, sir.

15 MR. FITZHENRY: All right, thank you.

16 JUDGE ALBERS: If there's nothing else then, I
17 would just throw out there is a possibility -- the
18 Commission does have rules providing for mediation.

19 Ms. McClain, are you familiar with
20 mediation?

21 MS. McCLAIN: No, sir, I'm not.

22 JUDGE ALBERS: That would be a process whereby

1 someone other than myself, because I'm already
2 involved as the Judge, somebody else here at the
3 Commission would try to help the two of you talk out
4 your problem and maybe come to a mutually agreeable
5 solution.

6 You might want to consider asking for
7 mediation from the Commission if you think that would
8 be helpful to you. That's a much simpler process and
9 often can be conducted much quicker than these formal
10 Complaint proceedings.

11 So I just throw that out there as an
12 option to consider.

13 MS. McCLAIN: Okay, if the mediation would be
14 agreeable to Mr. Fitzhenry, then we could do that.

15 MR. FITZHENRY: You and I will talk about that
16 after this call, okay?

17 That would be one of the things I'd
18 like to visit with you about.

19 MS. McCLAIN: Oh, okay.

20 JUDGE ALBERS: Yes, that would be something the
21 two of you would have to agree to and --

22 MS. McCLAIN: Oh, okay.

1 JUDGE ALBERS: I wanted to make sure you were
2 aware that that opportunity exists if Mr.
3 Fitzhenry --

4 MS. McCLAIN: Well, I thank you very much,
5 because I didn't know that.

6 JUDGE ALBERS: That's fine, I just wanted to
7 throw it out there and let you know it's there.

8 And I just will caution you though, in
9 mediation, no one will decide in the end who is right
10 or wrong. It's just someone to try and help you guys
11 work out your dispute.

12 MS. McCLAIN: Okay, I do that as a mother every
13 day.

14 MR. FITZHENRY: I'm a parent, too, I
15 understand.

16 JUDGE ALBERS: All right. Well, if there's
17 nothing further then, I will continue this -- we'll
18 put that schedule in place.

19 I'll look forward to receiving those
20 documents from both of you, and we'll continue this
21 to March 23rd at 2 PM.

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1 (WHEREUPON, the Hearing in this
2 matter is continued to Friday,
3 March 23, 2007 at 2:00 P.M. in
4 Springfield, Illinois.)
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